



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Carolina Archaeological Services
File: B-224818
Date: December 9, 1986

DIGEST

1. Protest that handcarried proposal was not late because it was delivered to the agency's mailroom before the time proposals were due is denied since to be timely a proposal must be received in the place designated for the receipt of proposals by the required time.
2. Agency's actions did not cause proposal to be submitted late where it appears that one commercial carrier's mailing-label which indicated that the package contained a proposal requiring expedited delivery was covered by a second carrier's label and agency, therefore, did not know the package contained a proposal due shortly and properly treated it as regular mail.

DECISION

Carolina Archaeological Services (CAS) protests the rejection as late of the proposal it submitted in response to request for proposals (RFP) No. 101-23-86, issued by the Veterans Administration (VA) to procure documentary archeologic research, fieldwork, and laboratory analysis.

We deny the protest.

The RFP, issued on August 13, 1986, required handcarried proposals to be submitted to the VA central office, 810 Vermont Avenue, Room 765, Washington, D.C., by 2 p.m. on September 12. The VA reports that at 11:05 a.m. on September 12 CAS's proposal was delivered by Airborne Express, a commercial carrier, to the VA central mailroom along with three other packages. The VA states that the package containing CAS' proposal did not indicate the date and time proposals were due or that the package contained a proposal requiring expedited delivery. Consequently, the

037567

VA's mailroom personnel treated and delivered the package to room 765 as regular mail. The package arrived in room 765 at 2:15 p.m. and was rejected as late.

CAS protests that because its proposal, delivered to the VA central mailroom at 11:05 a.m., was in the VA's possession before 2 p.m., it should not be considered late. Alternatively, CAS asserts that it gave the offer to Direct Express Courier, not Airborne Express, and that the front of its proposal contained the addressee's name, address, room number, telephone number, the date and time proposals were due and the notation that delivery had to be made by 12 noon. CAS argues that given this information and the fact that the proposal was in the VA's mailroom by 11:05 a.m., its proposal did not reach room 765 until after 2 p.m. due to government negligence and, thus, should be considered for award.

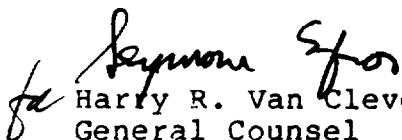
Initially, we reject CAS' argument that its proposal should not have been considered late because it was signed for in the VA central mailroom at 11:05 a.m. An offer is late if it does not arrive at the place designated in the solicitation for the receipt of proposals by the designated time. Rodale Electronics Corp., B-221727, Apr. 7, 1986, 86-1 C.P.D. ¶ 342. Receipt at other places within the agency, such as the mailroom, is not sufficient. J.E. Steigerwald Co., Inc., B-218536, Apr. 19, 1985, 85-1 C.P.D. ¶ 453. Because CAS' proposal was delivered by a commercial carrier it is considered handcarried, Rodale Electronics Corp., B-221727, supra, and since it did not arrive in room 765 until after 2 p.m., the proposal properly was determined to be late.

A late handcarried proposal may be considered for award only where improper government action was the paramount cause for the late submission and consideration of the proposal would not compromise the integrity of the competitive procurement process. The University of Kansas, B-222329, Apr. 15, 1986, 86-1 C.P.D. ¶ 369. The reason for this and other late proposal rules is that the manner in which the government conducts its procurements must be subject to clearly defined standards that apply equally to all so that fair and impartial treatment is ensured. There must be a time after which offers generally may not be received. To permit one offeror to deliver its proposal or modification after the established time would lead to confusion and unequal treatment of offerors and thereby would tend to subvert the competitive system. While we realize that by application of its late

proposal rules, the government at times may lose the benefit of proposals that offer terms more advantageous than those received timely, maintaining confidence in the competitive system is of greater importance than the possible advantage to be gained by considering a late proposal or modification. DBMS, Inc., B-222605, May 28, 1986, 86-1 C.P.D. ¶ 498.

The VA and CAS disagree as to whether the package was delivered by Airborne Express or Direct Express and whether it designated the time and date proposals were due and noted that delivery was required by noon. In contrast to CAS' bare statement, however, the VA has submitted a copy of the envelope that contained CAS' proposal. This envelope shows an Airborne Express mailing label over a Direct Express mailing label. The Airborne Express label indicates the correct name and address for proposal submission, but does not indicate that the package contains a proposal or that it requires expedited delivery. The VA also has submitted a copy of Airborne Express' manifest that shows that four packages were delivered to the VA central mailroom at 11:05 a.m. on September 12. It thus appears that Direct Express transferred the package to Airborne Express for delivery to the VA and that Airborne Express placed its mailing label over the Direct Express label and covered the due date and time for the proposal and the urgent delivery notation. Consequently, we cannot conclude that the VA was on notice that the package contained a proposal requiring immediate delivery or that the VA's improper actions were the paramount reason that CAS' proposal was not timely delivered to room 765. See S & W Enterprises, Inc., B-219716, Aug. 19, 1985, 85-2 C.P.D. ¶ 192.

The protest is denied.


Harry R. Van Cleve
General Counsel